

Sixth Appellate District

San Jose, California

MONDAY, APRIL 14, 2003

H022070 PEOPLE v. LAIWALA

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated February 11, 2002, is hereby vacated. The court by separate letter issued April 10, 2003, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.

Dated: April 14, 2003 Rushing, P.J.

H023228 CLARKE, et al. v. FUKUDA, et al.

For the foregoing reasons, we affirm the judgment below.

(not published)

(Rushing, P.J.; We concur: Premo, J., Wunderlich, J.)

Filed April 14, 2003

TUESDAY, APRIL 15, 2003

H024372 RAWLS v. ZAMORA, as Registrar of Voters, etc.

The judgment is affirmed. (published)

(Premo, J.; We concur: Rushing, P.J., Wunderlich, J.)

Filed April 15, 2003

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J., Wunderlich, J.; Mihara, J.; and Beth Miller, Deputy Clerk.

H024188 PEOPLE v. MITCHELL

Cause called and argued by J. Wilder Lee appearing for Appellant and by Morris Lenk, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Wunderlich, J. leaves the bench and Bamattre-Manoukian, J., takes the bench.

H022830 NOT LTD., et al. v. UNLIMITED, et al.; BANDLER v. HALL

Cause called and argued by Michael Brooks Carroll appearing for Appellant Bandler and by Philip Burkhardt appearing for Appellant Hall. The parties may file supplemental briefs by April 21, 2003. Cause deemed submitted upon the filing of the supplemental briefs or the expiration of the time to file said briefs.

Sixth Appellate District

San Jose, California

Tuesday, April 15, 2003 (continued)

H022450 BANDLER v. HALL

Cause called and argued by Michael Brooks Carroll appearing for Appellants and by Philip Burkhardt appearing for Respondent Hall. The parties may file supplemental briefs by April 21, 2003. Cause deemed submitted upon the filing of the supplemental briefs or the expiration of the time to file said briefs.

Rushing, P.J. leaves the bench and Wunderlich, J., takes the bench.

H024715 In re RONNIE GENE BUSH on Habeas Corpus

Cause called and argued by Jessica Nicole Blonien, Deputy Attorney General, appearing for Appellant and by Steve Defilippis appearing for Respondent. Cause ordered submitted.

H022545 BELLOWS, As Trustee, etc. v. POMPLUN

Cause called and argued by Appellant Beverly Bellows appearing in pro per and by Lawrence J. Kalfayan appearing for Respondent. Cause ordered submitted.

H023176 BELLOWS, As Trustee, etc. v. POMPLUN

Cause called and argued by Appellant Beverly Bellows appearing in pro per and by Lawrence J. Kalfayan appearing for Respondent. Cause ordered submitted

Bamattre-Manoukian, Acting P.J. leaves the bench and Premo, Acting P.J. takes the bench.

H021534 PEOPLE v. WILSON

Cause called and argued by Stephen Greenberg appearing for Appellant and by Mark S. Howell, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. The court is in recess until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Bamattre-Manoukian, J.; Wunderlich, J.; and W. Magsaysay, Deputy Clerk.

Sixth Appellate District

San Jose, California

Tuesday, April 15, 2003 (continued)

H024334 PEOPLE v. DAVID T.

Cause called and argued by Ann F. Vandepol appearing for Appellant and by Matthew P. Boyle, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024509 PEOPLE v. JOSEPH C.

Cause called and argued by Gerald Clausen appearing for Appellant and by Ryan B. McCarroll, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024191 LEVITAN v. APPLE COMPUTER, INC.

Cause called and argued by Roderick P. Bushnell appearing for Appellant and by Lynne C. Hermle appearing for Respondent. Cause ordered submitted.

H024335 In re MICHAEL T.; DFCS v. BING T., et al.

Cause called and argued by Ching Tai and Bing Tai, appellants in pro per, Rima Singh, Deputy County Counsel, appearing for Respondent Santa Clara County Department of Family and Children's Services and by Robert J. Masterson, Deputy District Attorney, appearing for Respondent minor. Cause ordered submitted. Court adjourns.

H021790 PEOPLE v. MURPHY

The judgment is reversed. (published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed April 15, 2003

H023707 PEOPLE v. POINSETT

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)
Filed April 15, 2003

Sixth Appellate District

San Jose, California

WEDNESDAY, APRIL 16, 2003

H024418 ZEN v. NGUYEN

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Wunderlich, J.)
Filed April 16, 2003

H025158 PEOPLE v. STEVE B.

The order is affirmed. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Mihara, J.)
Filed April 16, 2003

The Court met in its courtroom at 333 West Santa Clara
Street, Suite 1060, San Jose, California. Present: Rushing,
P.J.; Premo, J.; Elia, J.; and R. W. Norvelle, Deputy Clerk.

H023622 PEOPLE v. NGUYEN

Cause called and argued by Philip M. Brooks appearing for
Appellant and by Jeffrey Laurence, Deputy Attorney General,
appearing for Respondent. Cause ordered submitted.

H023540 PEOPLE v. HERNANDEZ

Cause called and argued by Donn Ginoza appearing for
Appellant and by Allan Yannow, Deputy Attorney General, appearing
for Respondent. Cause ordered submitted.

H023399 PEOPLE v. RIVERA

Cause called and argued by Brian Hong appearing for
Appellant and by Michele J. Swanson, Deputy Attorney General,
appearing for Respondent. Cause ordered submitted.

H024377 ALBRIGHT, et al. v. DAVIS; HAHN

Cause called and argued by Cathay F. Ericksen appearing for
Appellant and by Dennis James Luca appearing for Respondent.
Cause ordered submitted.

H023589 ATKINSON v. ELK CORPORATION OF TEXAS

Cause called and argued by Sharon L. Kinsey appearing for
Appellant and by John S. Burton appearing for Respondent. Cause
ordered submitted. Court recesses until 1:30 p.m.

Sixth Appellate District

San Jose, California

Wednesday, April 16, 2003 (continued)

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and S. Nasson, Deputy Clerk.

H022186 PEOPLE v. HUGHES

Cause called and argued by Richard Rubin appearing for Appellant and by John Vance, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024368 PEOPLE v. AGUILAR

Cause called and argued by Michael Levinson appearing for Appellant and by Rafael Sivilla, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023806 NIGRO v. HEETER

Cause called and argued by James Davis appearing for Appellant and by Myron Moskovitz appearing for Respondent. Cause ordered submitted.

H023476 CARLBLOM v. DOCTOR'S BILLING SERVICE, INC.

Cause called and argued by Thomas Ely appearing for Appellant and by Daniel Herns appearing for Respondent. Cause ordered submitted.

H023824 ASMELASH v. BRAGA

Cause called and argued by Bernard Cotter appearing for Appellant Braga and by Walter Walker appearing for Appellant Asmelash. Cause ordered submitted.

H024419 SOWARDS v. STARR, et al.

Cause called and argued by Daymon Ferguson appearing for Appellant and by Kimberly Fanady appearing for Respondents. Cause ordered submitted. Court is adjourned.

H024622 PEOPLE v. ALEJANDRO R.

The judgment is reversed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed April 16, 2003

Sixth Appellate District

San Jose, California

THURSDAY, APRIL 17, 2003

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Wunderlich, J.; and Jane V. Flor, Deputy Clerk.

H023451 PEOPLE v. WOOD

Cause called and argued by Robert D. McGhie appearing for Appellant and by Seth K. Schalit, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Premo, J. leaves the bench and Elia, J. takes the bench.

H023339 PEOPLE v. VASQUEZ

Cause called and argued by Carlo Andreani appearing for Appellant and by Seth K. Schalit, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024261 PEOPLE v. MAYRA N.

Cause called and argued by Kathleen W. Novoa appearing for Appellant and by David H. Rose, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Wunderlich, J. leaves the bench and Mihara, J. takes the bench.

H024566 PEOPLE v. GILARDO M.

Cause called and argued by Gordon B. Scott appearing for Respondent and by Michele J. Swanson, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024186 DOWNEY v. HARTFORD FIRE INSURANCE COMPANY

Cause called and argued by Jonathan C. S. Cox appearing for Appellant and by Allan Gabriel appearing for Respondent. Cause ordered submitted.

Rushing, P.J. and Mihara, J. leave the bench and Premo, Acting P.J. and Bamattre-Manoukian, J. take the bench.

Sixth Appellate District

San Jose, California

Thursday, April 17, 2003 (continued)

H023911 DESAIGOUDAR, et al. v. MEYERCORD, et al.

Cause called and argued by Richard J. Archer appearing for Appellants and by Valerie M. Wagner appearing for Respondents. Cause ordered submitted. Court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J., Wunderlich, J.; Mihara, J.; and Beth Miller, Deputy Clerk.

H024742 SILVA v. SILVA

Cause called and argued by Merrill Eugene Zimmershead appearing for Appellant. No appearance is made on behalf of respondent. Cause ordered submitted.

H024120 EBADY v. MULLIGAN

Cause called and argued by Robert M. Lubin appearing for Appellant and by Respondent Daniel Mulligan appearing in pro per. Cause ordered submitted.

H023620 JINKERSON v. AUTODISK, INC., et al.

Cause called and argued by Thomas Easton appearing for Appellants and by Bruce C. Funk appearing for Respondent. Cause ordered submitted.

H023424 HALLAM v. FALLON

Cause called and argued by Mark Logan Tuft appearing for Appellants Fallon, et al. and by Thomas P. Dwyer appearing for Appellants Hallam, et al. Cause ordered submitted. Court is adjourned.

H023004 PEOPLE v. TUDOR

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed April 17, 2003

H024074 PEOPLE v. MARQUEZ

The order denying defendant's petition for writ of error *coram nobis* is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Wunderlich, J.)
Filed April 17, 2003

Sixth Appellate District

San Jose, California

Thursday, April 17, 2003 (continued)

H023453 PEOPLE v. FOSTER

(Filed order modifying opinion.) This modification does not affect the judgment. The petition for rehearing is denied. (not published)

(Elia, Acting P.J., Mihara, J., Bamattre-Manoukian, J.)

Filed April 17, 2003

H024248 WARFEL v. COUNTY OF SANTA CLARA, et al.

The judgment is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed April 17, 2003

H025568 TORAN v. JONES, et al.

By the Court:

Upon the court's own motion, the submission order dated April 8, 2003, is vacated to allow the matter to be set for oral argument. Oral argument in the above entitled cause will be heard on Tuesday, May 6, 2003, at 9:30 a.m. The matter will be resubmitted upon completion of oral argument.

Dated: April 17, 2003 Bamattre-Manoukian, Acting P.J.

Sixth Appellate District

San Jose, California

FRIDAY, APRIL 18, 2003

H024054 SIDHU v. SINGH

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Mihara, J.)
Filed April 18, 2003

H024945 PEOPLE v. LUNA

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Wunderlich, J.)
Filed April 18, 2003

H021551 PEOPLE v. DIAZ

H023814 In re DIAZ on Habeas Corpus
The judgment is affirmed. The accompanying petition for
writ of habeas corpus is denied. (not published)
(Mihara, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)
Filed April 18, 2003

H024515 ESTATE OF DERREL B. DePASSE; DePASSE v. HARRIS

The judgment of the trial court is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,
Mihara, J.)
Filed April 18, 2003

H023899 PEOPLE v. AARON V.

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Elia, J., Wunderlich, J.)
Filed April 18, 2003

H024691 PEOPLE v. BABICH

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed April 18, 2003

H024191 LEVITAN v. APPLE COMPUTER, INC.

The judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J.,
Wunderlich, J.)
Filed April 18, 2003

Sixth Appellate District

San Jose, California

Friday, April 18, 2003 (continued)

H023711 PEOPLE v. HALL

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,
Mihara, J.)
Filed April 18, 2003

H021534 PEOPLE v. WILSON

The judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Mihara,
J.)
Filed April 18, 2003

H024334 PEOPLE v. DAVID T.

The judgment of the juvenile court is affirmed. (not
published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J.,
Wunderlich, J.)
Filed April 18, 2003

H022924 LAI v. KIMURA

We affirm the challenged order, entered April 4, 2001, which
sustained defendant's demurrer without leave to amend. We treat
the challenged judgment of March 12, 2001, as premature and we
deem it to have been vacated as of March 15, 2001, the date of
the hearing on demurrer. We remand this matter to the trial
court for the following proceedings: 1. Amended complaint to be
stricken: The plaintiff's amended complaint shall be stricken,
nunc pro tunc, as of the date of its filing, March 9, 2001. In
its discretion, the trial court may strike the complaint on its
own motion. 2. Action to be dismissed: Upon application of the
defendant, which may be ex parte, the court shall enter a
judgment of dismissal, nunc pro tunc, as of April 4, 2001, the
date of entry of the challenged order sustaining defendant's
demurrer without leave to amend. Defendant is entitled to costs
on appeal. (not published)
(Wunderlich, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed April 18, 2003